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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/862,995	05/22/2001	David Dines	1017-003US02	7508
7590	03/15/2006		EXAMINER	
SHUMAKER & SIEFFERT, P.A.			MILEF, ELDA G	
8425 Seasons Parkway			ART UNIT	PAPER NUMBER
Ste 105				3628
St.Paul, MN 55125			DATE MAILED: 03/15/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/862,995	DINES ET AL.
	Examiner Elda Milef	Art Unit 3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 5/22/2001.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-24 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-24 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 22 May 2001 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to because in Fig. 1 (22,24,26,28) and Fig. 2 (48, 50, 52, 54), the arrows are pointing in the wrong direction. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office

action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 7, 9-11, 19-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Teveler (US PG Pub. No. 2001/0034663).

Re claim 7: Teveler disclose:

setting a first price for a first quantity of a first commodity based on an average price observed during a period of time and a discount to the average price ("During the first stage a buyer has an option to purchase a certain product at a reduced/adjusted price")-see para. 84 and ("As was noted before, the initial minimum bid for the particular COMPLET is set up by TS. TS uses calculated Commodity Rates stored at TS COMPLET

Database 307 to establish the initial minim bid. TS accesses profit margins, wholesale vs. retail average historical prices tabulated at the TS COMPLET database 307...")-see para. 156, and ("Buyer may select a discount")-para.192 also pars. 98-108, 185; setting a second price for a second quantity of a second commodity based on a price determined at a future date ("The buyer then must choose at least one or more commodities to purchase over a period of time...")-see para. 85 and ("the original buyer commits to purchase commodities at the regular prices that the commodities will cost in the future")-see para. 86,

wherein the second price is floored so as not to drop below a minimum price ("\$bid price.sub.min and \$bid price.sub.max are the minimum and maximum bid prices set up by the TS for a particular commodity, respectively.")-see para. 151;;

delivering both the first quantity and the second quantity from a seller to a buyer -("The following is an example of the trading system for wireless access. A buyer in London using a wireless cell phone/Palm organizer connects to the Amazon.com.uk web site to purchase a DVD player and twelve DVD disks on line. This purchase is worth 470 pounds. The buyer uses the trading system and selects 150 pounds of discount. To cover the

discount the buyer commits to purchase an Internet connection contract with an individual service provider worth 640 pounds. The trading system will bind these purchase contracts into one COMPLET together with other buyers' purchase contract options, which will be auctioned at the trading system site."). -see para. 105. It is obvious that when a buyer and seller are bound by a contract, there will be delivery of the first and second quantity from a seller to the buyer.;

paying the seller a sum based on the first price, the discount, and the second price. -see pars. 84-85, 98-108.

Re claim 9: Teveler disclose:

wherein the seller is a reseller of commodities -see para. 16.

Re claims 10, 11 and 22, 23 have similar limitations found in claims 4 and 5 below, therefore are rejected by the same rationale.

Re claims 19 and 20 have similar limitations found in claim 7 above, therefore are rejected by the same rationale.

Re claim 21 have similar limitations found in claim 3 below and is therefore rejected by the same rationale.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-6, 12-18, 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Teveler in view of Estelami (Estelami, Hooman. *Consumer Savings in Complementary Product Bundles*. Journal of Marketing Theory and Practice. Statesboro: Summer 1999. Vol. 7, Iss. 3; p. 107, 8 pgs.).

Re claim 1: Teveler discloses:

setting a first price for a first quantity of a first commodity based on an average price observed during a period of time ("During the first stage a buyer has an option to purchase a certain product at a reduced/adjusted price")-see para. 84 and

("As was noted before, the initial minimum bid for the particular COMPLET is set up by TS. TS uses calculated Commodity Rates stored at TS COMPLET Database 307 to establish the initial minim bid. TS accesses profit margins, wholesale vs. retail average historical prices tabulated at the TS COMPLET database 307...")-see para. 156;

setting a second price for a second quantity of a second commodity based on a price determined at a future date ("The buyer then must choose at least one or more commodities to purchase over a period of time...")-see para. 85 and ("the original buyer commits to purchase commodities at the regular prices that the commodities will cost in the future")-see para. 86;

wherein the second price is capped so as to not exceed a maximum price ("\$bid price.sub.min and \$bid price.sub.max are the minimum and maximum bid prices set up by the TS for a particular commodity, respectively.")-see para. 151;

delivering both the first quantity and the second quantity form a seller to a buyer-("The following is an example of the trading system for wireless access. A buyer in London using a wireless cell phone/Palm organizer connects to the Amazon.com.uk web site to purchase a DVD player and twelve DVD disks on line. This purchase is worth 470 pounds. The buyer uses the trading

system and selects 150 pounds of discount. To cover the discount the buyer commits to purchase an Internet connection contract with an individual service provider worth 640 pounds. The trading system will bind these purchase contracts into one COMPLET together with other buyers' purchase contract options, which will be auctioned at the trading system site."). -see para. 105. It is obvious that when a buyer and seller are bound by a contract, there will be delivery of the first and second quantity from a seller to the buyer;

Teveler does not disclose a first price based on a premium above the average price. Although Estelami discloses charging a premium or bundle surcharge-see p. 3 para.5-p. 4, line 3. Estelami does not specifically disclose that the price is based on a premium above the average price. Official notice is taken that it is old and well known in the art of finance that when a product is in demand, a seller will often charge a premium above an average price. Therefore, It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Teveler to include determining a price for an item based on a premium charged above an average price as is old and well known in the art in order to increase profits for the seller.

Although Teveler disclose paying the seller a sum based on a first and second price and a discount. -see pars. 100-108, Teveler do not specifically disclose paying a premium. Estelami however, teaches ("In these cases, consumers are hit with bundle surcharges by paying an equal or higher amount than if they were to buy the items individually")-see p. 6, para. 9, and ("complementary bundles allow sellers to provide no bundle savings, or even allow them to charge a premium...")-see p. 3, para.5- p.4, line 1. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Teveler to include charging a premium on items as was taught by Estelami in order to provide convenience to the customer by eliminating the task of combining products, such as computer hardware and software.

Re claim 2: Teveler do not specifically disclose:

wherein the first price is a per unit price X_1 , the premium is a per unit price Y_1 , the second price is a per unit price X_2 , the first quantity is Q_1 units, the second quantity is Q_2 units, and the sum paid to the seller is based on $(X_1 + Y_1) * Q_1 + X_2 * Q_2$. Official notice is taken that the calculation of total price is old and well known in the art of

accounting that the total cost is calculated based on per unit cost multiplied by the quantity available and adding a premium to the cost. For example, this is used when purchasing items in bulk, and when purchasing stocks. The premium that is charged when trading stocks is a broker's fees. It would have been obvious to one having ordinary skill in the art of finance to modify Teveler to include calculating the total cost of a purchase to include multiplying the quantity of units by a unit price and adding a premium as is old and well known in the art of finance in order to calculate the total cost.

Re claim 3: Teveler disclose:

wherein the seller is a producer of commodities.-see para. 104 ("direct manufacturer (GATEWAY)");

Re claim 4: Teveler disclose:

wherein the buyer is a reseller of commodities. -see pars. 5-11, 138;

Re claim 5: Teveler disclose:

wherein the commodities include at least one of crude oil, heating oil, unleaded gasoline, jet fuel, kerosene, propane, water, communication or computing bandwidth, semiconductor chips, pollution/emission rights, gold, silver, palladium, aluminum, copper, steel, and lead.-see para. 90;

Re claim 6: Teveler do not disclose:

wherein the first commodity is the same as the second commodity. Estelami however, shows ("price bundling refers to selling multiples of the same product as a bundle...")-see para.

3. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Teveler to include selling multiples of a same product as a bundle as was taught by Estelami in order to allow the seller to reduce selling costs;

Re claims 12, 18, 24 have similar limitations found in claims 6, above therefore are rejected by the same rationale.

Re claims 13 and 14 have similar limitations found in claim 1 above, therefore are rejected by the same rationale.

Re claims 15-17 have similar limitations found in claims 3-5 above, therefore are rejected by the same rationale.

4. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Teveler.

Re claim 8: Although Teveler disclose a buyer purchasing a specific amount, for example ("a medium-sized company purchases seven computer workstations and two printers from a direct manufacturer(GATEWAY) for \$18,550.") And a discount (" The company buyer selects a discount worth \$3,420...")-see par. 104,

also, pars. 84-85. Teveler does not specifically disclose a per unit price. Official notice is taken that the calculation of total price is old and well known in the art of accounting that the total cost is calculated based on per unit cost multiplied by the quantity available and subtracting discounts. For example, this is used when purchasing items in bulk. It would have been obvious to one having ordinary skill in the art of finance at the time the invention was made to modify Teveler to include calculating the total cost of a purchase to include multiplying the quantity of units by a unit price as is old and well known in the art of accounting in order to calculate the total cost.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Rao, Akshay and Mark Bergen. *Price Premium Variations as a Consequence of Buyers' Lack of Information*. Journal of Consumer Research: Dec 1992; 19, 3: pg. 412. -Cited for its reference to premium prices (prices that are considerably above average) and for reference to the excess price paid, over and above the "fair price".

US PG Pub. No. 2002/0026404 (Thompson)-cited for its reference to analysis of market indicators such as simple average, moving averages , in relation to stock prices.

US Patent No. 6,473,084 (Phillips) -cited for analysis of historical values of a variable over time and including a future portion.

US PG Pub. No. 2002/0069156 (Adam)-cited for its reference to analysis of a commodity which displays price trend metrics.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elda Milef whose telephone number is (571)272-8124. The examiner can normally be reached on Monday - Friday 9:15 am to 5:45 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung Sough can be reached on (571)272-6799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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